

Message

From: Ludmer, Margo [ludmer.margo@epa.gov]
Sent: 4/2/2019 4:30:45 PM
To: Ward-Willis, Nicholas M. [NWard-Willis@kblaw.com]
CC: Sachs, Joel H. [JSachs@kblaw.com]; Doyle, James [Doyle.James@epa.gov]
Subject: RE: Kisco Ave Sampling Work

Nick,

EPA is in receipt of your letter dated April 1, 2019, concerning the planned sampling work at your clients' property. This letter proposes that EPA perform a portion of the field work during evening hours, despite our repeated assertion that such a pre-condition to access is unacceptable. It remains our position that your clients' request is unreasonable and, as we have said numerous times before, we will not agree to perform this short-term and routine sampling work during nighttime hours.

It is apparent from your letter that your clients are not agreeing to provide EPA with a minimum of three full and consecutive days of access to perform the required investigatory work. While your letter invites comments from EPA, there is nothing more to discuss regarding your clients' reiteration of the same pre-conditions to access. It is well-documented that EPA has been in communication with you regarding this matter for over ten months, and your clients continue to impose pre-conditions to entry that restrict or impede the manner and extent of EPA's response work.

EPA issued your clients an access order on March 12, 2019, and it is now April 2. You and your clients were given the opportunity to confer with a neutral officiant from EPA's Office of Regional Counsel regarding the access order. If you still wish to participate in such a conference, please let me know your availability for the conference to take place *this week*, either by phone or in person. Otherwise, we will conclude that you do not choose to avail yourself of a timely conference.

Thank you,

Margo

Margo B. Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
(212) 637-3187

From: Ward-Willis, Nicholas M. <NWard-Willis@kblaw.com>
Sent: Friday, March 29, 2019 2:36 PM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Cc: Sachs, Joel H. <JSachs@kblaw.com>; Doyle, James <Doyle.James@epa.gov>
Subject: Re: Kisco Ave Sampling Work

Thank you for your consideration. We will discuss with our clients and get back to you, likely Monday morning as I am heading out for a meeting now.

Nick

Nicholas M. Ward-Willis

Keane & Beane, P.C.
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Sent from my iPhone

Nicholas M. Ward-Willis
Principal Member



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On Mar 29, 2019, at 2:07 PM, Ludmer, Margo <ludmer.margo@epa.gov> wrote:

Nick,

Our client conferred with the Removal Support Team contractor regarding the planned sampling event at your client's property. If your client is willing to cover the additional costs associated with off-hours work, as was discussed during our call on Wednesday, EPA and the contractor are willing begin the sampling work on either Saturday or Sunday. Because EPA requires at least three full and consecutive days of access for the screening and soil sampling, as well as one day to collect the radon canisters, the work cannot be confined to the weekend and would extend from either Saturday or Sunday into the work week. EPA continues to view nighttime work as an unacceptable condition to access.

As soon as possible, please let me know if your client agrees to access on these terms. If this arrangement is acceptable to your client, we can provide you with a ballpark estimate of the potential costs. Otherwise, please let me know your/your client's availability Monday – Thursday of next week for the conference on the access order.

Thank you,

Margo

Margo B. Ludmer
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